

respectfully submitted that the Examiner has failed to consider the claimed invention and references as a whole.

Appellant does not concede that the present invention is a mere change in camera angle. Nevertheless, the Examiner appears to argue that a change in camera angle is legally per se unpatentable. The legal precedence from which the Examiner draws support for his arguments appears questionable. For example, the Examiner states: "the shifting of location of the camera is not considered patentable because it does not yield any unexpected results, as supported by the Federal Court law," and cites *In re Japikse*. The Examiner also states: "The adjustment of the camera angle from one scene to another angle is not patentable, as supported by the Federal Court law," and cites *In re Stephens*. It is noted that *Japikse* (1950) was decided before obviousness was even codified by the Patent Act of 1952, and *Stephens* (1954) was decided before *Graham v. John Deere Co.*, which first set out the current objective standard of obviousness. Thus, it is respectfully submitted that reliance upon these decisions for determining the standard of obviousness is dubious. Furthermore, in contrast to the Examiner's assertion, neither *Japikse* nor *Stephens* states that adjustment of a camera angle is not patentable. *Japikse* deals with an anticipation rejection in which the Court upheld a Board decision that held that there was no invention in shifting a starting switch into a different position, but only when the change fails to change the operation of the device. Even if one accepts that this decision would be upheld today, Appellant submits that the "operation" of the present claimed invention is different than that of *Matthews*. *Stephens*, like *Japikse*, if upheld today, would be heavily dependent on its individual facts. However, it is clear that *Stephens* has nothing to do with the adjustment of camera angles.

In reference to lines 1-8 on page 8 of the Examiner's Answer, the Examiner asserts that

Matthews teaches a system whereby multiple cameras are arranged to give a live feed of the participant's perspective. Appellant disagrees. Matthews teaches cameras pointed at the participants, not from the perspective of the participants. As support for his argument, the Examiner references Fig. 2, elements 42-48, and col. 2, lines 19-25. Fig. 2, elements 42-48 clearly show cameras arranged around a baseball diamond pointed at the participants. Col. 2, lines 19-25 of Matthews states: "The remote control handset has dedicated camera control buttons for selecting corresponding virtual channels to thereby permit the viewer to choose a desired camera viewpoint. The dedicated camera control buttons are arranged in a correlating pattern to the camera viewpoints so that selection of a desired viewpoint is intuitive to the viewer." It is unclear to the Appellant how this portion of Matthews is cited as support for a teaching of a camera mounted to give the participant's perspective.

In reference to lines 9-19 on page 8 of the Examiner's Answer, the Examiner purports to address the Appellant's arguments from page 7, line 19 to page 8, line 4 of the Appellant's Appeal Brief. By arguing that NASCAR is a "sporting event," it is believed that the Examiner missed the point of the Appellant's arguments in this portion of the Appeal Brief. In the Appeal Brief, Appellant argued that the claimed invention resulted in the satisfaction of a long-felt need in the entertainment industry and in improved results with respect to the prior art. Appellant argued these factors as secondary considerations, which should be considered when determining patentability. It is clear that the Examiner failed to consider these secondary considerations.

Claim 4

In reference to lines 2-9 on page 9 of the Examiner's Answer, concerning claim 4, Appellant maintains the positions taken in the Appeal Brief

Claims 5, 6, 10 and 12

In reference to lines 13-18 on page 9 of the Examiner's Answer, concerning claim 5, the Examiner argues that Figure 1, element 22 of Matthews teaches a monitor screen in which a plurality of resulting images are viewed. Applicant respectfully disagrees. Figure 1 of Matthews teaches a monitor screen 22 clearly showing a single image.

In reference to the portion of the Examiner's Answer spanning page 9, line 19 to page 10, line 7, concerning claim 6, the Examiner states: "Matthews teaches the virtual channels that can carry video signals from different camera, meaning each virtual channel correspond to another camera view of a participant (col. 2, lines 10-12). So, if the viewer wants to see a virtual channel, then the viewer will see the combination of video images from a camera associated with a participant of particular interest. Matthews also discloses a primary channel that the view is familiar (col. 2, lines 8-10; note standard viewing program of the sporting event in on the primary channel)." It is again pointed out by the Appellant that Matthews fails to teach a split screen television or monitor, as recited claim 6. Furthermore, Appellant respectfully disagrees with the Examiner's interpretation of Matthews. The portion of Matthews cited by the Examiner states: "The television broadcast has a primary channel which the viewer is familiar, and multiple virtual channels associated with the primary channel. These virtual channels carry video signals from the different cameras." (col. 2, lines 8-12). In contrast to the Examiner's assertion, this portion of Matthews does not discuss "combination of video images" or many of the other features of claim 6.

In reference to lines 8-13 on page 10 of the Examiner's Answer, concerning claim 10, the Examiner asserts that Matthews teaches a camera feed for all participants in the sporting event. Figure 2 of Matthews shows cameras 42-48 corresponding to cardinal directions, but Matthews

fails to show that there is a camera associated with each participant. For the baseball example in Matthews, it is pointed out that there are at least 10 players on the field at any time (8 position fielding players, 1 pitcher, and 1 batter). Matthews clearly shows 7 cameras which correspond to viewpoints, not player perspectives. The Examiner has failed to suggest a modification or motivation to modify Matthews such that a camera feed is generated for all participants in the sporting events. Accordingly, the Examiner has still failed to set forth a *prima facie* case of obviousness with respect to claim 10.

In reference to the portion of the Examiner's Answer spanning page 10, line 14 to page 11, line 2, concerning claim 12, Appellant maintains the positions taken in the Appeal Brief.

Claims 2, 3, 7-9 and 11

In reference to lines 4-16 on page 11 of the Examiner's Answer, concerning claim 2, the Examiner states: "Evidently, a 'field level audio feed' can be broadly considered as audio information of the sporting event's participants because the audio date is taken from the field." Appellant disagrees. This overly broad interpretation of "field level audio feed" is an insufficient teaching of the recitations of claim 2.

In reference to the portion of the Examiner's Answer spanning page 11, line 18 to page 12, line 4, concerning claims 7 and 8, Appellant maintains the position that "market scheme," as used in the context of Vancelette, has nothing to do with advertising. Vancelette uses "marketing scheme" to refer to the grouping of programming based on the level of viewer payment, similar to a pay-per-view or premium movie packages.

In reference to lines 5-21 on page 12 of the Examiner's Answer, concerning claim 9, the Examiner again misuses the term "ratings scheme" as gathering viewer requests. Vancelette

states: "The audio/video may also be grouped according to a rating scheme based on, e.g., adult content, violence or the like." As discussed in the Appellant's Appeal Brief, the Vancelette clearly uses the term "rating scheme" in context of movie ratings, e.g., X, NC-17, R, PG-13, and G. The "rating scheme" of Vancelette has nothing to do with gathering viewer requests. Furthermore, the Examiner argues that Vancelette "implies" the use of statistics by allowing viewers to access special programming. It is respectfully submitted that an "implication" is not a sufficient teaching for an obviousness rejection. If the Examiner is arguing that gathering statistics is inherent in the system of Vancelette, then the Appellant respectfully disagrees. Vancelette clearly fails to teach such a feature.

Should any fees be due, the Commissioner is hereby authorized to charge such deficiency to Deposit Account No. 22-0261.

Respectfully submitted,



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